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In re Application of
David W. Pratt
Application No. 09/681,814
Filed: June 11, 2001
For: DUAL FUNCTION BAILER

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

This is a decision on applicant's renewed petition filed February 4, 2004 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated December 24, 2002 and a Notice to that effect was mailed on August 19, 2003.

Petitioner states that a response was filed on March 14, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated March 14, 2003 and a USPTO return facsimile receipt dated the same. However the USPTO return facsimile receipt does not specify what was submitted by applicant.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

The renewed petition includes a statement from Deborah Preza stating "The original response ... was timely transmitted ... having a Certificate of Facsimile Transmission dated March 14, 2003." This statement is inadequate because it does not indicate personal knowledge that the response was in fact transmitted to the USPTO on March 14, 2003.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."


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SNM/mjz: 4/5/04